

Adopted	Rejected
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COMMITTEE REPORT

YES:	21
NO:	0

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred House Bill 1554, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 taxation and finance.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 4-4-10.9-6.2 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.2. (a)
- 8 "Educational facility project" includes:
- 9 (1) the acquisition of land, site improvements, infrastructure
- 10 improvements, buildings, or structures, the rehabilitation,
- 11 renovation, and enlargement of buildings and structures,
- 12 machinery, equipment, furnishings, or facilities (or any
- 13 combination of these):
- 14 (†) (A) comprising or being functionally related and
- 15 subordinate to any aquaria, botanical societies, historical

societies, libraries, museums, performing arts associations or societies, scientific societies, zoological societies, and independent elementary, secondary, or postsecondary schools (or any combination of these) that engages in the cultural, intellectual, scientific, educational, or artistic enrichment of the people of the state the development or expansion of which serves the purposes set forth in IC 4-4-11-2;

~~(2)~~ **(B)** is not used or to be used primarily for sectarian instruction or study or as a place for devotional activities; and ~~(3)~~ **(C)** is not used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

(2) funding (including a reimbursement or refinancing) by a nonprofit organization described in subsection (b) of:

(A) real property;

(B) improvements;

(C) personal property;

(D) working capital;

(E) a liability; or

(F) a cost or other expenditure, other than an ordinary and recurring operating cost or expenditure.

(b) For purposes of subsection (a)(2), a nonprofit organization must be:

(1) qualified as tax-exempt under Section 501(c)(3) of the Internal Revenue Code; and

(2) have headquarters or a primary educational or exhibit facility located on property owned by or titled in the name of the state of Indiana or an agency, commission, or instrumentality of the state of Indiana that serves the purposes set forth in IC 4-4-11-2.

SECTION 2. IC 4-4-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The legislature makes the following findings of fact:

(1) That there currently exists in certain areas of the state critical conditions of unemployment or environmental pollution, including water pollution, air pollution, sewage and solid waste, radioactive waste, thermal pollution, radiation contamination, and noise pollution, and that these conditions may well exist, from

- 1 time to time, in other areas of the state.
- 2 (2) That in some areas of the state such conditions are chronic and
3 of long standing and that without remedial measures they may
4 become so in other areas of the state.
- 5 (3) That economic insecurity due to unemployment or
6 environmental pollution is a menace to the health, safety, morals,
7 and general welfare of not only the people of the affected areas
8 but of the people of the entire state.
- 9 (4) That involuntary unemployment and its resulting burden of
10 indigency falls with crushing force upon the unemployed worker
11 and ultimately upon the state in the form of public assistance and
12 unemployment compensation.
- 13 (5) That security against unemployment and the resulting spread
14 of indigency and economic stagnation in the areas affected can
15 best be provided by:
- 16 (A) the promotion, attraction, stimulation, rehabilitation, and
17 revitalization of industrial development projects, rural
18 development projects, mining operations, and agricultural
19 operations that involve the processing of agricultural products;
20 (B) the promotion and stimulation of international exports; and
21 (C) the education, both formal and informal, of people of all
22 ages throughout the state by the promotion, attraction,
23 construction, renovation, rehabilitation, and revitalization of
24 **and assistance to** educational facility projects.
- 25 (6) That the present and prospective health, safety, morals, right
26 to gainful employment, and general welfare of the people of the
27 state require as a public purpose the abatement or control of
28 pollution, the promotion of increased educational enrichment
29 (including cultural, intellectual, scientific, or artistic
30 opportunities) for people of all ages through new, expanded or
31 revitalized educational facility projects, and the promotion of
32 employment creation or retention through development of new
33 and expanded industrial development projects, rural development
34 projects, mining operations, and agricultural operations that
35 involve the processing of agricultural products.
- 36 (7) That there is a need to stimulate a larger flow of private
37 investment funds from commercial banks, investment bankers,
38 insurance companies, other financial institutions, and individuals

1 into such industrial development projects, rural development
 2 projects, mining operations, international exports, and agricultural
 3 operations that involve the processing of agricultural products in
 4 the state.

5 (8) That the authority can encourage the making of loans or leases
 6 for creation or expansion of industrial development projects, rural
 7 development projects, mining operations, international exports,
 8 and agricultural operations that involve the processing of
 9 agricultural products, thus putting a larger portion of the private
 10 capital available in Indiana for investment to use in the general
 11 economic development of the state.

12 (9) That the issuance of bonds of the authority to create a
 13 financing pool for industrial development projects promoting a
 14 substantial likelihood of opportunities for:

15 (A) gainful employment;

16 (B) business opportunities;

17 (C) educational enrichment (including cultural, intellectual,
 18 scientific, or artistic opportunities);

19 (D) the abatement, reduction, or prevention of pollution; or

20 (E) the removal or treatment of any substances in materials
 21 being processed that otherwise would cause pollution when
 22 used;

23 will improve the health, safety, morals, and general welfare of the
 24 people of the state and constitutes a public purpose for which the
 25 authority shall exist and operate.

26 (10) That the issuance of bonds of the authority to create a
 27 funding source for the making of guaranteed participating loans
 28 will promote and encourage an expanding international exports
 29 market and international exports sales and will promote the
 30 general welfare of all of the people of Indiana by assisting Indiana
 31 businesses through stimulation of the expansion of international
 32 exports sales for Indiana products and services, especially those
 33 of small and medium-sized businesses, by providing financial
 34 assistance through the authority.

35 (b) The Indiana development finance authority shall exist and
 36 operate for the public purposes of:

37 (1) promoting opportunities for gainful employment and business
 38 opportunities by the promotion and development of industrial

development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, in any areas of the state;

(2) promoting the educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) of all the people of the state by the promotion and development of educational facility projects;

(3) promoting affordable farm credit and agricultural loan financing at interest rates that are consistent with the needs of borrowers for farming and agricultural enterprises; and

(4) preventing and remediating environmental pollution, including water pollution, air pollution, sewage and solid waste disposal, radioactive waste, thermal pollution, radiation contamination, and noise pollution affecting the health and well being of the people of the state by the promotion and development of industrial development projects.

SECTION 3. IC 4-4-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The authority is granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes under this chapter, IC 4-4-21, and IC 15-7-5, including but not limited to the following:

(1) Have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions.

(2) Without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, and regulations not inconsistent with this chapter, IC 4-4-21, and IC 15-7-5 and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the authority and conduct its business.

(3) Sue and be sued in its own name.

(4) Have an official seal and alter it at will.

(5) Maintain an office or offices at a place or places within the state as it may designate.

(6) Make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter, IC 4-4-21, and IC 15-7-5.

1 (7) Employ architects, engineers, attorneys, inspectors,
2 accountants, agriculture experts, silviculture experts, aquaculture
3 experts, and financial experts, and such other advisors,
4 consultants, and agents as may be necessary in its judgment and
5 to fix their compensation.

6 (8) Procure insurance against any loss in connection with its
7 property and other assets, including loans and loan notes in
8 amounts and from insurers as it may consider advisable.

9 (9) Borrow money, make guaranties, issue bonds, and otherwise
10 incur indebtedness for any of the authority's purposes, and issue
11 debentures, notes, or other evidences of indebtedness, whether
12 secured or unsecured, to any person, as provided by this chapter,
13 IC 4-4-21, and IC 15-7-5.

14 (10) Procure insurance or guaranties from any public or private
15 entities, including any department, agency, or instrumentality of
16 the United States, for payment of any bonds issued by the
17 authority or for reinsurance on amounts paid from the industrial
18 development project guaranty fund, including the power to pay
19 premiums on any insurance or reinsurance.

20 (11) Purchase, receive, take by grant, gift, devise, bequest, or
21 otherwise, and accept, from any source, aid or contributions of
22 money, property, labor, or other things of value to be held, used,
23 and applied to carry out the purposes of this chapter, IC 4-4-21,
24 and IC 15-7-5, subject to the conditions upon which the grants or
25 contributions are made, including but not limited to gifts or grants
26 from any department, agency, or instrumentality of the United
27 States, and lease or otherwise acquire, own, hold, improve,
28 employ, use, and otherwise deal in and with real or personal
29 property or any interest in real or personal property, wherever
30 situated, for any purpose consistent with this chapter, IC 4-4-21,
31 or IC 15-7-5.

32 (12) Enter into agreements with any department, agency, or
33 instrumentality of the United States or this state and with lenders
34 and enter into loan agreements, sales contracts, and leases with
35 contracting parties, including borrowers, lenders, developers, or
36 users, for the purpose of planning, regulating, and providing for
37 the financing and refinancing of any agricultural enterprise (as
38 defined in IC 15-7-4.9-2), rural development project (as defined

1 in IC 15-7-4.9-19.5), industrial development project, or
2 international exports, and distribute data and information
3 concerning the encouragement and improvement of agricultural
4 enterprises and agricultural employment, rural development
5 projects, industrial development projects, international exports,
6 and other types of employment in the state undertaken with the
7 assistance of the authority under this chapter.

8 (13) Enter into contracts or agreements with lenders and lessors
9 for the servicing and processing of loans and leases pursuant to
10 this chapter, IC 4-4-21, and IC 15-7-5.

11 (14) Provide technical assistance to local public bodies and to
12 profit and nonprofit entities in the development or operation of
13 agricultural enterprises, rural development projects, and industrial
14 development projects.

15 (15) To the extent permitted under its contract with the holders of
16 the bonds of the authority, consent to any modification with
17 respect to the rate of interest, time, and payment of any
18 installment of principal or interest, or any other term of any
19 contract, loan, loan note, loan note commitment, contract, lease,
20 or agreement of any kind to which the authority is a party.

21 (16) To the extent permitted under its contract with the holders of
22 bonds of the authority, enter into contracts with any lender
23 containing provisions enabling it to reduce the rental or carrying
24 charges to persons unable to pay the regular schedule of charges
25 when, by reason of other income or payment by any department,
26 agency, or instrumentality of the United States of America or of
27 this state, the reduction can be made without jeopardizing the
28 economic stability of the agricultural enterprise, rural
29 development project, or industrial development project being
30 financed.

31 (17) Invest any funds not needed for immediate disbursement,
32 including any funds held in reserve, in direct and general
33 obligations of or obligations fully and unconditionally guaranteed
34 by the United States, obligations issued by agencies of the United
35 States, obligations of this state, or any obligations or securities
36 which may from time to time be legally purchased by
37 governmental subdivisions of this state pursuant to IC 5-13, or
38 any obligations or securities which are permitted investments for

- 1 bond proceeds or any construction, debt service, or reserve funds
- 2 secured under the trust indenture or resolution pursuant to which
- 3 bonds are issued.
- 4 (18) Collect fees and charges, as the authority determines to be
- 5 reasonable, in connection with its loans, guarantees, advances,
- 6 insurance, commitments, and servicing.
- 7 (19) Cooperate and exchange services, personnel, and information
- 8 with any federal, state, or local government agency, or
- 9 instrumentality of the United States or this state.
- 10 (20) Sell, at public or private sale, with or without public bidding,
- 11 any loan or other obligation held by the authority.
- 12 (21) Enter into agreements concerning, and acquire, hold, and
- 13 dispose by any lawful means, land or interests in land, building
- 14 improvements, structures, personal property, franchises, patents,
- 15 accounts receivable, loans, assignments, guarantees, and
- 16 insurance needed for the purposes of this chapter, IC 4-4-21, or
- 17 IC 15-7-5.
- 18 (22) Take assignments of accounts receivable, loans, guarantees,
- 19 insurance, notes, mortgages, security agreements securing notes,
- 20 and other forms of security, attach, seize, or take title by
- 21 foreclosure or conveyance to any industrial development project
- 22 when a guaranteed loan thereon is clearly in default and when in
- 23 the opinion of the authority such acquisition is necessary to
- 24 safeguard the industrial development project guaranty fund, and
- 25 sell, or on a temporary basis, lease, or rent such industrial
- 26 development project for any use.
- 27 (23) Expend money, as the authority considers appropriate, from
- 28 the industrial development project guaranty fund created by
- 29 section 16 of this chapter.
- 30 (24) Purchase, lease as lessee, construct, remodel, rebuild,
- 31 enlarge, or substantially improve industrial development projects,
- 32 including land, machinery, equipment, or any combination
- 33 thereof.
- 34 (25) Lease industrial development projects to users or developers,
- 35 with or without an option to purchase.
- 36 (26) Sell industrial development projects to users or developers,
- 37 for consideration to be paid in installments or otherwise.
- 38 (27) Make direct loans from the proceeds of the bonds to users or

- 1 developers for:
- 2 (A) the cost of acquisition, construction, or installation of
- 3 industrial development projects, including land, machinery,
- 4 equipment, or any combination thereof; or
- 5 (B) **working capital expenditures for an educational facility**
- 6 **project described in IC 4-4-10.9-6.2(a)(2);**
- 7 with the loans to be secured by the pledge of one (1) or more
- 8 bonds, notes, warrants, or other secured or unsecured debt
- 9 obligations of the users or developers.
- 10 (28) Lend or deposit the proceeds of bonds to or with a lender for
- 11 the purpose of furnishing funds to such lender to be used for
- 12 making a loan to a developer or user for the financing of industrial
- 13 development projects under this chapter.
- 14 (29) Enter into agreements with users or developers to allow the
- 15 users or developers, directly or as agents for the authority, to
- 16 wholly or partially construct industrial development projects to be
- 17 leased from or to be acquired by the authority.
- 18 (30) Establish reserves from the proceeds of the sale of bonds,
- 19 other funds, or both, in the amount determined to be necessary by
- 20 the authority to secure the payment of the principal and interest on
- 21 the bonds.
- 22 (31) Adopt rules governing its activities authorized under this
- 23 chapter, IC 4-4-21, and IC 15-7-5.
- 24 (32) Use the proceeds of bonds to make guaranteed participating
- 25 loans.
- 26 (33) Purchase, discount, sell, and negotiate, with or without
- 27 guaranty, notes and other evidences of indebtedness.
- 28 (34) Sell and guarantee securities.
- 29 (35) Make guaranteed participating loans under IC 4-4-21-26.
- 30 (36) Procure insurance to guarantee, insure, coinsure, and
- 31 reinsure against political and commercial risk of loss, and any
- 32 other insurance the authority considers necessary, including
- 33 insurance to secure the payment of principal and interest on notes
- 34 or other obligations of the authority.
- 35 (37) Provide performance bond guarantees to support eligible
- 36 export loan transactions, subject to the terms of this chapter or
- 37 IC 4-4-21.
- 38 (38) Provide financial counseling services to Indiana exporters.

(39) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, any federal or state agency, municipality, private organization, or other source.

(40) Sell, convey, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.

(41) Cooperate with other public and private organizations to promote export trade activities in Indiana.

(42) Make guarantees and administer the agricultural loan and rural development project guarantee fund established by IC 15-7-5.

(43) Take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to the enterprise or rural development project is clearly in default and when in the opinion of the authority the acquisition is necessary to safeguard the agricultural loan and rural development project guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.

(44) Expend money, as the authority considers appropriate, from the agricultural loan and rural development project guarantee fund created by IC 15-7-5-19.5.

(45) Reimburse from bond proceeds expenditures for industrial development projects under this chapter.

(46) Do any act necessary or convenient to the exercise of the powers granted by this chapter, IC 4-4-21, or IC 15-7-5, or reasonably implied from those statutes, including but not limited to compliance with requirements of federal law imposed from time to time for the issuance of bonds.

(b) The authority's powers under this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers.

(c) This chapter does not authorize the financing of industrial development projects for a developer unless any written agreement that may exist between the developer and the user at the time of the bond resolution is fully disclosed to and approved by the authority.

SECTION 4. IC 4-4-11-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) The authority may enter into negotiations with one (1) or more persons concerning the terms and conditions of financing agreements for industrial development projects. The authority shall consider whether a proposed industrial development project may have an adverse competitive effect on similar industrial development projects already constructed or operating in the local governmental unit where the industrial development project will be located. Preliminary expenses in connection with negotiations under this section may be paid from:

- (1) money furnished by the proposed user or developer;
- (2) money made available by the state or federal government, or by any of their departments or agencies; or
- (3) money of the authority, exclusive of the industrial development project guaranty fund.

(b) The authority shall prepare a report that:

- (1) briefly describes the proposed industrial development project;
- (2) estimates the number and expense of public works or services that would be made necessary or desirable by the proposed industrial development project, including public ways, schools, water, sewers, street lights, and fire protection;
- (3) estimates the total costs of the proposed industrial development project;
- (4) for an industrial development project that is not exclusively either a pollution control facility or an educational facility project, estimates the number of jobs and the payroll to be created or saved by the project;
- (5) for pollution control facilities, describes the facilities and how they will abate, reduce, or prevent pollution; and
- (6) for educational facility projects, describes ~~the facilities and~~ how the ~~facilities promote~~ **project promotes** the educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) of the people of the state.

The report shall be submitted to the executive director or chairman of the plan commission, if any, having jurisdiction over the industrial development project and, if the number of new jobs estimated exceeds one hundred (100), to the superintendent of the school corporation where the industrial development project will be located. The executive

1 director or chairman of the plan commission and the school
2 superintendent may formulate their written comments concerning the
3 report and transmit their comments, if any, to the authority within five
4 (5) days from the receipt of the report.

5 (c) The authority shall hold a public hearing, which may be
6 conducted by the authority, or any officer, member, or agent designated
7 thereby, on the proposed financing agreement for the industrial
8 development project, after giving notice by publication in one (1)
9 newspaper of general circulation in the city, town, or county where the
10 industrial development project is to be located at least ten (10) days in
11 advance of this public hearing.

12 (d) If the authority finds that the industrial development project will
13 be of benefit to the health, safety, morals, and general welfare of the
14 area where the industrial development project is to be located, and
15 complies with the purposes and provisions of this chapter, it may by
16 resolution approve the proposed financing agreement. This resolution
17 may also authorize the issuance of bonds payable solely from revenues
18 and receipts derived from the financing agreement or from payments
19 made under an agreement to guarantee obligations of the developer, a
20 user, a related person, or the authority by a developer, a user, a related
21 person thereto, or the authority pursuant to the industrial development
22 project guaranty fund. The bonds are not in any respect a general
23 obligation of the state, nor are they payable in any manner from
24 revenues raised by taxation.

25 (e) A financing agreement approved under this section must provide
26 for payments in an amount sufficient to pay the principal of, premium,
27 if any, and interest on the bonds authorized for the financing of the
28 industrial development project. However, interest payments for the
29 anticipated construction period, plus a period of not more than one (1)
30 year, may be funded in the bond issue. The term of a financing
31 agreement may not exceed fifty (50) years from the date of any bonds
32 issued under the financing agreement. However, a financing agreement
33 does not terminate after fifty (50) years if a default under that financing
34 agreement remains uncured, unless the termination is authorized by the
35 terms of the financing agreement. If the authority retains an interest in
36 the industrial development project, the financing agreement must
37 require the user or the developer to pay all costs of maintenance, repair,
38 taxes, assessments, insurance premiums, trustee's fees, and any other

- 1 expenses relating to the industrial development projects, so that the
 - 2 authority will not incur any expenses on account of the industrial
 - 3 development projects other than those that are covered by the payments
 - 4 provided for in the financing agreement."
 - 5 Page 26, line 36, delete "and one-half".
 - 6 Page 26, line 36, delete "(6.5%);" and insert "**(6%);**".
 - 7 Page 27, line 6, delete "and one-half".
 - 8 Page 27, line 6, delete "(6.5%)" and insert "**(6%)**".
 - 9 Renumber all SECTIONS consecutively.
- (Reference is to HB 1554 as introduced.)

and when so amended that said bill do pass.

Representative Bauer